HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

Writ Petition No.20189 of 1999

Between:

T. Syama Sunder

… Petitioner

And

The A.P. Transmission Corporation Ltd.
Rep. by its Managing Director, Vidyut Soudha,
Hyderabad and another

… Respondents

:: ORDER::

Counsel for Petitioner: Shri D. Praveen Kumar with
Shri A.K. Jayaprakash Rao

Counsel for the Respondents: Shri Samineni Kishore

February 14, 2007

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In this petition, the petitioner has prayed for quashing communication dated 2-6-1998 vide which Superintending Engineer, Operation, Anantapur (hereinafter referred to as 'the Superintending Engineer') rejected his candidature for appointment to the post of Typist/Lower Division Clerk. The other prayer made by the petitioner is for issue of a mandamus to the respondents to appoint him as Typist/Lower Division Clerk under 50% quota in terms of the policy contained in B.P.Ms.No.36, dated 18-5-1997.

It is borne out from the record that the petitioner had filed Writ Petition No.13780 of 1997 with the complaint that the concerned authority of the Andhra Pradesh State Electricity Board (for short, 'the Board') has not considered his case for absorption in accordance with the policy framed by the Board. The same was disposed of by the learned Single Judge on
2-7-1997 by directing the respondents to consider the petitioner's case for absorption in the services of the Board. In compliance of the Court's order, respondent No.2 interviewed the petitioner, but rejected his candidature on the ground that there was discrepancy in the service certificates produced by him and also on the ground that he was not on the rolls as on 18-5-1997.

In the affidavit filed by him, the petitioner has pleaded that the decision of the Superintending Engineer not to entertain his candidature is arbitrary, unreasonable and discriminatory. According to the petitioner, he fulfils the educational qualifications prescribed for the post of Typist, but the Superintending Engineer arbitrarily refused to consider his candidature on the ground of so-called discrepancy in

the service certificates.

In the counter filed on behalf of the respondents, Shri B.S. Ramachandra Rao, Assistant Secretary/Legal has averred that the service certificates produced by the petitioner were not taken into consideration because the same had not been countersigned by any officer of the Board. Paragraphs 3 to 6 of the counter-affidavit read as under:

> "3. Adverting to para 5 of the affidavit, it is submitted that in pursuance of the discretion of Hon'ble High Court of A.P. in 13780/97 filed by the petitioner he has been interviewed on 2.11.97.
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> 4. Adverting to para 6 of the affidavit, it is submitted that the respondents have honoured the orders of the Hon'ble High Court of A.P. and the petitioner has been interviewed on 2-11-97 as per the directions of Hon'ble High Court of A.P. in 13780/97 and the averment of the petitioner that the reasons assigned by the respondents in rejecting the petitioner's case for consideration in the post of Typist/L.D.Clerk under 50% quota are totally unjustified, unsustainable in law and no facts and contrary to their own memos and circulars issued is not correct and acceptable.
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> 5. Adverting to para 8 & 9 of the affidavit, it is submitted that the averment of the petitioner that he has worked for 240 days continuous period and he is entitled on consideration and consequent appointment to the post is not correct. As per the contractor certificate, he has been worked from 1991 to 1992 and 1992 to 1993 only. The period of said he have been engaged as contract labour is not authenticated by any Board official i.e. Asst. Engineer/ Addl. Asst. Engineer/Asst. Divn. Engineer, which is must in terms of B.P.Ms.No.271, dt.31-12-1997 and Memo No.Addl. Secy/DGM/(IR)/AS (OR) SPO.II/A1/1170/99, dt.3.12.99.
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> Hence, the petitioner case has been rejected by the respondents as he was not on rolls as on 18.5.97 with proper appreciation of rule position and application of mind on the

rules.

6. Adverting to para 10 of the affidavit, it is submitted that the APSEB (now A.P. Transco) has issued instructions and clarifications on the B.P.Ms.No.36, dt.18.5.97 from time to time for filling up the 50% of vacancies among the Ex-casual labour/VEW's/contract labours. The contracdt labour should be on rolls as on 18.5.97 in terms of B.P.Ms.No.271, dt.31.12.97 in which working instructions were issued for implementation of Boards orders in B.P.Ms.No.36, dt.31.12.97. This has been upheld by the Hon'ble High court in similar cases in W.P.No.35577/98 and dismissed the writ petition and hence the action of Superintending Engineer/Operation/Anantapur in rejecting his case is legal and valid."

The petitioner has not filed rejoinder affidavit to controvert the averments contained in the counter affidavit of the respondents. Therefore, I do not see any reason to discard the assertion of the respondents that the service certificates produced by the petitioner are not genuine.

I have heard learned counsel for the parties and perused the record. In my opinion, the writ petition is liable to be dismissed because the petitioner has failed to establish his entitlement to be considered for appointment to the post of Typist/Lower Division Clerk. The policy contained in B.P.Ms.No.36, dated 18-5-1997 envisaged consideration of the candidature of ex-casual labour, contract labour and Village Electricity Workers for absorption in the services of the Board to the extent of 50% of the available vacancies provided that the person concerned had worked with the contractor or under the Gram Panchayat or as a contract labour in the services of the Board. The petitioner did not produce any evidence before respondent No.2 to show that he had actually worked under the

contractor. Even before this Court, no material has been produced to prove that he had actually worked under the contractor, who was assigned projects by the Board.

During the course of arguments, Shri D. Praveen Kumar produced Xerox copies of two certificates, which were taken on record, but on a cursory perusal of these documents, I am convinced that the same cannot be made basis for entertaining the claim of the petitioner because none of the officers of the Board has countersigned the certificates. It also appears that the petitioner has fabricated the certificate by putting up signatures of the person with the name Y.S. Reddy, who is shown as Class I contractor. In any case, the question relating to genuineness or otherwise of the certificate allegedly issued by Shri Y.S. Reddy cannot be adjudicated in the proceedings filed under Article 226 of the Constitution of India.

For the reasons stated above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP No.25332 of 1992 filed by the petitioner for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

February 14, 2007

svs